

Amendment No. 1 to SB1568

Bell
Signature of Sponsor

AMEND Senate Bill No. 1568

House Bill No. 1583*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-39-211(c), is amended by deleting the subsection and substituting instead the following:

(c)

(1) While mandated to comply with the requirements of this part, no sexual offender or violent sexual offender, whose victim was a minor, shall knowingly reside or conduct an overnight visit at a residence in which a minor resides or is present. Notwithstanding this subsection (c), the offender may reside, conduct an overnight visit, or be alone with a minor if the offender is the parent of the minor, unless:

(A) The offender's parental rights have been or are in the process of being terminated as provided by law;

(B) Any minor or adult child of the offender was a victim of a sexual offense or violent sexual offense committed by the offender; or

(C) The offender has been convicted of a sexual offense or violent sexual offense and the following conditions have been satisfied:

(i) The victim of the sexual offense or violent sexual offense was a minor twelve (12) years of age or less; and

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(ii) A circuit court, exercising its jurisdiction over civil matters, has found by clear and convincing evidence that the offender presents a danger of substantial harm to the minor.

(2) For purposes of subdivision (c)(1)(C):

(A) The district attorney general for the judicial district in which the minor resides may petition the court to make a finding described in subdivision (c)(1)(C)(ii) at any time the offender is required to register pursuant to this part;

(B) The offender must be provided notice and an opportunity to be heard;

(C) When determining whether the offender poses a danger of substantial harm to a minor, the court may consider the facts and circumstance of the offense, the offender's most recent efforts to rehabilitate, compliance with community supervision as provided in § 39-13-524 if applicable, any violations of this part as specified in § 40-39-208, and other relevant evidence;

(D) All files and records of the court in the proceeding must be treated as confidential and shall not be open to the public or disclosed to the public, but are open to:

(i) The judge, officers, and professional staff of the court;

(ii) The parties to the proceeding and their counsel and representatives;

(iii) Any parent or legal guardian of the minor other than the offender;

(iv) The offender's registering agency; and

(v) With permission of the court, any other person or agency having a legitimate interest in the proceeding;

(E) The court must enter a written order stating its findings. If the court finds that the offender presents a danger of substantial harm to the minor, the district attorney general shall provide the court's finding to the offender's registering agency;

(F) No sooner than two (2) years after the date of entry of the circuit court's order, the offender may petition the court for reconsideration of a finding that the offender presents a danger of substantial harm to the minor. The offender must show, by clear and convincing evidence, that the offender no longer presents a danger of substantial harm to the minor; and

(G) An appeal from a final order or judgment under subdivision (c)(1)(C)(ii) may be made to the court of appeals. A finding that the offender presents a danger of substantial harm to the minor shall remain in effect pending the outcome of the appeal.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.